

ASSEMBLY BILL

No. 1846

Introduced by Assembly Member V. Manuel Perez

February 12, 2010

An act to amend Sections 21159 and 21159.1 of the Public Resources Code, relating to the environment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1846, as introduced, V. Manuel Perez. Environment: expedited environmental review: climate change regulations.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

CEQA requires specified state agencies to perform, at the time of adoption of a rule or regulation requiring the installation of pollution control equipment, an environmental analysis of the reasonably foreseeable methods of compliance. CEQA authorizes the use of a focused environmental impact report for a project that is solely of the installation of pollution control equipment required by the specified state agencies.

This bill would additionally require the above environmental analysis be performed for a rule or regulation adopted pursuant to the California Global Warming Solutions Act of 2006. The bill would authorize the use of the focused environmental impact report for a project that reduces greenhouse gas emissions in compliance with a rule or regulation adopted pursuant to the California Global Warming Solutions Act of 2006.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature in enacting this
2 measure to conform and clarify existing law. This measure is not
3 intended to supersede existing law.

4 SEC. 2. Section 21159 of the Public Resources Code is
5 amended to read:

6 21159. (a) An agency listed in Section 21159.4 shall perform,
7 at the time of the adoption of *either* a rule or regulation requiring
8 the installation of pollution control equipment, or a performance
9 standard or treatment requirement, *or a rule or regulation pursuant*
10 *to the California Global Warming Solutions Act of 2006 (Division*
11 *25.5 (commencing with Section 38500) of the Health and Safety*
12 *Code)*, an environmental analysis of the reasonably foreseeable
13 methods of compliance. In the preparation of this analysis, the
14 agency may utilize numerical ranges or averages where specific
15 data is not available; however, the agency shall not be required to
16 engage in speculation or conjecture. The environmental analysis
17 shall, at minimum, include, all of the following:

18 (1) An analysis of the reasonably foreseeable environmental
19 impacts of the methods of compliance.

20 (2) An analysis of reasonably foreseeable feasible mitigation
21 measures.

22 (3) An analysis of reasonably foreseeable alternative means of
23 compliance with the rule or regulation.

24 (4) *For a rule or regulation adopted pursuant to the California*
25 *Global Warming Solutions Act of 2006 (Division 25.5 (commencing*
26 *with Section 38500) of the Health and Safety Code), the analysis*
27 *shall include reasonably foreseeable greenhouse gas emission*

1 *impacts of the methods of compliance identified as required by*
2 *this section.*

3 (b) The preparation of an environmental impact report at the
4 time of adopting a rule or regulation pursuant to this division shall
5 be deemed to satisfy the requirements of this section.

6 (c) The environmental analysis shall take into account a
7 reasonable range of environmental, economic, and technical factors,
8 population and geographic areas, and specific sites.

9 ~~(d) Nothing in this~~ *This section shall does not* require the agency
10 to conduct a project level analysis.

11 (e) For purposes of this article, the term “performance standard”
12 includes process or raw material changes or product reformulation.

13 ~~(f) Nothing in this~~ *This section is not intended, or and may not*
14 *be used, to delay the adoption of any rule or regulation for which*
15 *an analysis is required to be performed pursuant to this section.*

16 SEC. 3. Section 21159.1 of the Public Resources Code is
17 amended to read:

18 21159.1. (a) A focused environmental impact report may be
19 utilized if a project meets all of the following requirements:

20 (1) The project consists solely of the installation of pollution
21 control equipment required by a rule or regulation of an agency
22 listed in Section 21159.4 and other components necessary to
23 complete the installation of that equipment *or a project that reduces*
24 *greenhouse gases to comply with a rule or regulation adopted*
25 *pursuant to the California Global Warming Solutions Act of 2006*
26 *(Division 25.5 (commencing with Section 38500) of the Health*
27 *and Safety Code).*

28 (2) The agency certified an environmental impact report on the
29 rule or regulation or reviewed it pursuant to a certified regulatory
30 program, and, in either case, the review included an assessment
31 of growth inducing impacts and cumulative impacts of, and
32 alternatives to, the project.

33 (3) The environmental review required by paragraph (2) was
34 completed within five years of certification of the focused
35 environmental impact report.

36 (4) An environmental impact report is not required pursuant to
37 Section 21166.

38 (b) The discussion of significant effects on the environment in
39 the focused environmental impact report shall be limited to
40 project-specific potentially significant effects on the environment

1 of the project which were not discussed in the environmental
2 analysis of the rule or regulation required pursuant to subdivision
3 (a) of Section 21159. ~~No~~ A discussion of growth-inducing impacts
4 or cumulative impacts shall *not* be required in the focused
5 environmental impact report, and the discussion of alternatives
6 shall be limited to a discussion of alternative means of compliance,
7 if any, with the rule or regulation.